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Facsimile No. (571) 273-0807 Examiner Celsa, Bennett M. at the United States
Patent and Trademark Office, on the date shown below.

Dated: August 24, 2004

Signature: 

(DeAnn F. Smith, Esq.)

Docket No.: BBI-6026CPCN
(PATENT)**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:
Wilhelm Amberg *et al.*

Application No.: 09/757142

Art Unit: 1639

Filed: January 9, 2001

Examiner: Celsa, Bennett M.

For: Antineoplastic Peptides

SUPPLEMENTAL COMMUNICATION

Via Facsimile
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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SEP 30 2004

Dear Sir:

Applicants provide this Supplemental Communication in response to the Examiner's inquiry into the status of the terminal disclaimer that addressed the obviousness-type double patenting rejections with respect to U.S. Patent No 5,965,700. Applicants submit that such terminal disclaimer was provided with our response of December 1, 2003, receipt of which was acknowledged by the U.S. Patent and Trademark Office by return of the acknowledgement postcard (a copy of which is enclosed for convenience).

Moreover, as claims 1-7 and 10 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,103,698, 1-11 of U.S. Patent No. 6,015,790, 1-10 of U.S. Patent No. 5,831,002, and 1-4 of U.S. Patent No. 5,965,700, Applicants have also formerly provided terminal disclaimers that addressed the obviousness-type double patenting rejections with respect to U.S. Patent Nos. 6,103,698, and 5,831,002, in our response of December 1, 2003. A copy of each of the three terminal disclaimers was again provided in our supplemental response of July 1, 2004, which was submitted in conjunction with the outstanding terminal disclaimer that addressed the obviousness-type double patenting rejections with respect to U.S. Patent No. 6,015,790 (a copy of the acknowledgement

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postcard, date-stamped by the USPTO, and the transmittal have also been enclosed for the sake of convenience).

The Examiner has recommended that Applicants resubmit all four terminal disclaimers in order to render the record complete. In this regard, and in order to expedite prosecution, Applicants submit herewith a copy of each of the four terminal disclaimers previously submitted to the U.S. Patent and Trademark Office.

Claims 1-7 and 10 were pending in the instant application. Claims 1-3 have been deemed allowed by the Examiner. Moreover, Applicants have previously provided all terminal disclaimer required to put the application in condition for allowance. *No new matter has been added.* Accordingly, Applicants respectfully submit that the rejection of claims 1-7 and 10 under the judicially created doctrine of obviousness-type double patenting is now moot, and respectfully requests withdrawal of the rejection and allowance of the application.

CONCLUSION

In view of the foregoing, allowance of this application with all pending claims are respectfully requested. If a telephone conversation with Applicants' attorney would expedite prosecution of the above-identified application, the Examiner is invited to call the undersigned at (617) 227-7400.

Respectfully submitted,

LAHIVE & COCKFIELD, LLP

Dated: August 24, 2004

By 

DeAnn F. Smith, Esq.

Registration No.: 36,683

LAHIVE & COCKFIELD, LLP

28 State Street

Boston, Massachusetts 02109

(617) 227-7400

(617) 742-4214 (Fax)

Attorney/Agent For Applicant